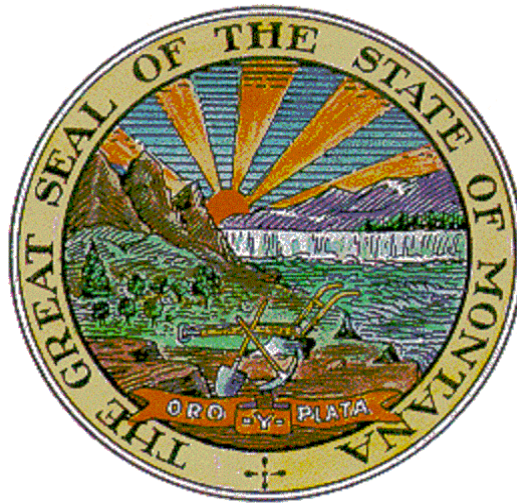


State of Montana  
Department of Labor and Industry  
Business Standards Division

STATUTES RELATING TO THE PRACTICE OF ATHLETICS



ISSUED BY:

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**TITLE 37  
CHAPTER 1  
PART 4**

**Part 4**

**Uniform Regulations for Licensing Programs Without Boards**

**37-1-401. Uniform regulation for licensing programs without boards -- definitions.** As used in this part, the following definitions apply:

- (1) "Complaint" means a written allegation filed with the department that, if true, warrants an injunction, disciplinary action against a licensee, or denial of an application submitted by a license applicant.
- (2) "Department" means the department of labor and industry provided for in 2-15-1701.
- (3) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department, with respect to a complaint or other information before the department, that is carried out for the purpose of determining:
  - (a) whether a person has violated a provision of law justifying discipline against the person;
  - (b) the status of compliance with a stipulation or order of the department;
  - (c) whether a license should be granted, denied, or conditionally issued; or
  - (d) whether the department should seek an injunction.
- (4) "License" means permission in the form of a license, permit, endorsement, certificate, recognition, or registration granted by the state of Montana to engage in a business activity or practice at a specific level in a profession or occupation governed by:
  - (a) Title 37, chapter 35, 72, or 76; or
  - (b) Title 50, chapter 39, 74, or 76.
- (5) "Profession" or "occupation" means a profession or occupation regulated by the department under the provisions of:
  - (a) Title 37, chapter 35, 72, or 76; or
  - (b) Title 50, chapter 39, 74, or 76.

**History: En. Sec. 1, Ch. 481, L. 1997; amd. Sec. 111, Ch. 483, L. 2001; amd. Sec. 21, Ch. 410, L. 2003.**

**37-1-402. Unprofessional conduct -- complaint -- investigation -- immunity.** (1) A person, government, or private entity may submit a written complaint to the department charging a licensee or license applicant with a violation of this part and specifying the grounds for the complaint.

(2) If the department receives a written complaint or otherwise obtains information that a licensee or license applicant may have violated a requirement of this part, the department may investigate to determine whether there is reasonable cause to believe that the licensee or license applicant has committed the violation.

(3) A person or private entity, but not a government entity, filing a complaint under this section in good faith is immune from suit in a civil action related to the filing or contents of the complaint.

**History: En. Sec. 2, Ch. 481, L. 1997.**

**37-1-403. Notice -- request for hearing.** (1) If the department determines that reasonable cause exists supporting the allegation made in a complaint, the department legal staff shall prepare a notice and serve the alleged violator. The notice may be served by certified mail to the current address on file with the department or by other means authorized by the Montana Rules of Civil Procedure.

(2) A licensee or license applicant shall give the department the licensee's or applicant's current address and any change of address within 30 days of the change.

(3) The notice must state that the licensee or license applicant may request a hearing to contest the charge or charges. A request for a hearing must be in writing and must be received in the offices of the department within 20 days after the licensee's receipt of the notice. Failure to request a hearing constitutes a default on the charge or charges, and the department may enter a decision on the basis of the facts available to it.

**History: En. Sec. 3, Ch. 481, L. 1997.**

**37-1-404. Hearing -- adjudicative procedures.** The procedures in Title 2, chapter 4, governing adjudicative proceedings before agencies, the Montana Rules of Civil Procedure, and the Montana Rules of Evidence govern a hearing under this part. The department has all the powers and duties granted by Title 2, chapter 4.

**History: En. Sec. 4, Ch. 481, L. 1997.**

**37-1-405. Findings of fact -- order -- report.** (1) If the department finds by a preponderance of the evidence, following a hearing or on default, that a violation of this part has occurred, the department shall prepare and serve findings of fact, conclusions of law, and an order as provided in Title 2, chapter 4. If the licensee or license applicant is found not to have violated this part, the department shall prepare and serve an order of dismissal of the charges.

(2) The department may report the issuance of a notice and final order to:

(a) the person or entity who brought to the department's attention information that resulted in the initiation of the proceeding;

(b) appropriate public and private organizations that serve the profession or occupation; and

(c) the public.

**History: En. Sec. 5, Ch. 481, L. 1997.**

**37-1-406. Sanctions -- stay -- costs -- stipulations.** (1) Upon a decision that a licensee or license applicant has violated this part or is unable to practice with reasonable skill and safety due to a physical or mental condition or upon stipulation of the parties as provided in subsection (4), the department may issue an order providing for one or any combination of the following sanctions:

(a) revocation of the license;

(b) suspension of the license for a fixed or indefinite term;

(c) restriction or limitation of the practice;

(d) satisfactory completion of a specific program of remedial education or treatment;

(e) monitoring of the practice by a supervisor approved by the disciplining authority;

(f) censure or reprimand, either public or private;

(g) compliance with conditions of probation for a designated period of time;

(h) payment of a fine not to exceed \$1,000 for each violation;

(i) denial of a license application;

(j) refund of costs and fees billed to and collected from a consumer.

(2) Any fine collected by the department as a result of disciplinary actions must be deposited in the state general fund.

(3) A sanction may be totally or partly stayed by the department. To determine which sanctions are appropriate, the department shall first consider the sanctions that are necessary to protect or compensate the public. Only after the determination has been made may the department consider and include in the order any requirements designed to rehabilitate the licensee or license applicant.

(4) The licensee or license applicant may enter into a stipulated agreement resolving potential or pending charges that includes one or more of the sanctions in this section. The stipulation is an informal disposition for the purposes of 2-4-603.

(5) A licensee shall surrender a suspended or revoked license to the department within 24 hours after receiving notification of the suspension or revocation by mailing the license or delivering it personally to the department.

**History: En. Sec. 6, Ch. 481, L. 1997.**

**37-1-407. Appeal.** A person who is disciplined or denied a license may appeal the decision to the district court as provided in Title 2, chapter 4.

**History: En. Sec. 7, Ch. 481, L. 1997.**

**37-1-408. Reinstatement.** A licensee whose license has been suspended or revoked under this part may petition the department for reinstatement after an interval set by the department in the order. The department may hold a hearing on the petition and may deny the petition or order reinstatement and impose terms and conditions as provided in 37-1-312. The department may require the successful completion of an examination as a condition of reinstatement and may treat a licensee whose license has been revoked or suspended as a new applicant for purposes of establishing the requisite qualifications of licensure.

**History: En. Sec. 8, Ch. 481, L. 1997.**

**37-1-409. Enforcement of fine.** (1) If payment of a fine is included in an order and timely payment is not made as directed in the order, the department may enforce the order for payment in the district court of the first judicial district.

(2) In a proceeding for enforcement of an order of payment of a fine, the order is conclusive proof of the validity of the order of payment and the terms of payment.

**History: En. Sec. 9, Ch. 481, L. 1997.**

**37-1-410. Unprofessional conduct.** The following is unprofessional conduct for a licensee or license applicant governed by this chapter:

(1) being convicted, including a conviction following a plea of nolo contendere and regardless of a pending appeal, of a crime relating to or committed during the course of practicing the person's profession or occupation or involving violence, the use or sale of drugs, fraud, deceit, or theft;

(2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to licensure or certification;

(3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure;

(4) signing or issuing, in the licensee's professional capacity, a document or statement that the licensee knows or reasonably ought to know contains a false or misleading statement;

(5) making a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct of the profession or occupation;

(6) offering, giving, or promising anything of value or benefit to a federal, state, or local government employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local law, rule, or ordinance governing the licensee's profession or occupation;

(7) the denial, suspension, revocation, probation, fine, or other license restriction or discipline against a licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not on appeal or under judicial review or has been satisfied.

(8) failure to comply with a term, condition, or limitation of a license by final order of the department;

(9) having a physical or mental disability that renders the licensee or license applicant unable to practice the profession or occupation with reasonable skill and safety;

(10) misappropriating property or funds from a client or workplace or failing to comply with the department's rule regarding the accounting and distribution of a client's property or funds;

(11) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts, failure to respond to department inquiries regarding a complaint against the licensee or license applicant, or the use of threats or harassment against or inducement to a client or witness to prevent them from providing evidence in a disciplinary proceeding or other legal action or use of threats or harassment against or inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from being filed, prosecuted, or completed;

(12) assisting in the unlicensed practice of a profession or occupation or allowing another person or organization to practice or offer to practice the profession or occupation by use of the licensee's license.

**History: En. Sec. 10, Ch. 481, L. 1997.**

**37-1-411. Practice without license -- investigation of complaint -- injunction -- penalties.** (1) The department may investigate a complaint or other information received concerning practice by an unlicensed person of a profession or occupation governed by this part.

(2) The department may file an action to enjoin a person from practicing, without a license, a profession or occupation governed by this part.

**History: En. Sec. 11, Ch. 481, L. 1997; amd. Sec. 5, Ch. 230, L. 1999.**

**37-1-412. Violation of injunction -- penalty.** (1) A person who has been enjoined and who violates an injunction issued pursuant to a proceeding under this part may be held in contempt of court and shall pay a civil penalty, as determined by the court, of not more than \$5,000. Fifty percent of the penalty must be deposited in the general fund of the county in which the injunction is issued, and 50% must be deposited in the state general fund.

(2) A person subject to an injunction for practicing without a license may also be subject to criminal prosecution. In a complaint for an injunction or in an affidavit, information, or indictment alleging that a person has engaged in unlicensed practice, it is sufficient to charge that the person engaged in the unlicensed practice of a licensed profession or occupation on a certain day in a certain county without averring further or more particular facts concerning the violation.

(3) Unless otherwise provided by statute, a person practicing a licensed profession or occupation in this state without complying with the licensing provisions of this title is guilty of a misdemeanor punishable by a fine of not less than \$250 or more than \$1,000, imprisonment in the county jail for not less than 90 days or more than 1 year, or both. Each violation of the provisions of this chapter constitutes a separate offense.

**History: En. Sec. 12, Ch. 481, L. 1997; amd. Sec. 6, Ch. 230, L. 1999.**

**37-1-413. Department authority.** For each licensing program regulated by the department under this part, the department is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding licensees and license applicants and regarding possible unlicensed practice.

**History: En. Sec. 4, Ch. 230, L. 1999.**

**TITLE 23  
CHAPTER 3  
PART 3 - 6**

**23-3-301. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Combative events" means a match, exhibition, contest, show, or tournament involving contestants in boxing, wrestling, mud wrestling, martial arts, or any other combative practice as defined by the department by rule.

(2) "Contestant" means a professional or semiprofessional practitioner of boxing, wrestling, mud wrestling, martial arts, or any other combative practice as defined by the department by rule.

(3) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(4) "Program" means a set of operations governed by the statutes in this chapter and the rules adopted by the department under this chapter.

**History:** En. Sec. 2, Ch. 506, L. 1983; amd. Sec. 55, Ch. 483, L. 2001; amd. Sec. 8, Ch. 11, L. 2007.

**23-3-402. Enforcement of rules.** (1) The department may designate in writing a representative to act specifically on behalf of the department but only within the scope of the written authority.

(2) The representative shall attend and supervise a combative event and has the authority from the department to enforce rules adopted under this chapter.

**History:** En. Sec. 4, Ch. 506, L. 1983; amd. Sec. 9, Ch. 11, L. 2007.

**23-3-404. Jurisdiction -- license required -- contestant participation.** (1) The department has sole management, control, and jurisdiction over each professional or semiprofessional combative event involving recognition, a prize, or a purse and at which an admission fee is charged, either directly or indirectly, in the form of dues or otherwise, to be held within the state, except a combative event conducted:

(a) by a university, college, or high school; or

(b) by the military.

(2) An organization or individual may not conduct a combative event within the department's jurisdiction unless the organization or individual is the holder of an appropriate license granted by the department.

(3) A referee, manager, or judge may not participate in a combative event within the department's jurisdiction unless:

(a) the individual is licensed by the department; and

(b) the combative event is conducted by an organization or individual licensed by the department.

(4) A contestant may not participate in a combative event within the department's jurisdiction unless:

(a) the contestant is licensed by the department;

(b) the combative event is conducted by an organization or individual licensed by the department; and

(c) the department has not suspended the right of the contestant to participate under [23-3-603](#).

**History:** En. Sec. 6, Ch. 506, L. 1983; amd. Sec. 2, Ch. 97, L. 1985; amd. Sec. 10, Ch. 11, L. 2007.

**23-3-405. Rules.** (1) The department may adopt rules for the administration and enforcement of this chapter.

(2) (a) The rules must include the granting, suspension, and revocation of licenses and the qualification requirements for those to be licensed to conduct combative events or to be licensed as referees, managers, or judges. License qualifications must include appropriate knowledge, experience, and integrity.

(b) The rules may include but are not limited to the following:

(i) the labeling of a match as a championship match;

(ii) the number and length of rounds and the weight of gloves;

(iii) the extent and timing of the physical examination of contestants;

(iv) the attendance of a referee and the referee's powers and duties; and

(v) review of decisions made by officials.

(3) The rules must:

- (a) meet or exceed the safety codes required by recognized professional boxing, wrestling, and other organizations conducting combative events;
- (b) provide reasonable measures for the fair conduct of the combative events and for the protection of the health and safety of the contestants;
- (c) require a physical examination of each contestant prior to each combative event;
- (d) provide for the qualifications of judges, referees, and seconds and for their payment by the promoter; and
- (e) provide for the attendance at ringside of one or more of the following and require the promoter to pay for that person's attendance:
  - (i) a licensed physician as defined in [37-3-102](#);
  - (ii) a licensed physician assistant as defined in [37-20-401](#); or
  - (iii) a licensed advanced practice registered nurse as defined in [37-8-102](#).

**History:** En. Sec. 7, Ch. 506, L. 1983; amd. Sec. 3, Ch. 97, L. 1985; amd. Sec. 1, Ch. 375, L. 2003; amd. Sec. 1, Ch. 375, L. 2003; amd. Sec. 1, Ch. 202, L. 2005; amd. Sec. 33, Ch. 519, L. 2005; amd. Sec. 11, Ch. 11, L. 2007.

**23-3-501. Licenses -- fees.** (1) The department may issue a license to a professional or semiprofessional promoter of combative events, whether an individual or organization, for the sole purpose of conducting professional or semiprofessional combative events.

(2) The department may issue licenses to qualified referees, managers, contestants, seconds, trainers, and judges.

(3) A license issued in accordance with subsections (1) and (2) expires on the date set by department rule.

(4) Each application for a license under this section must be accompanied by a fee, as provided in [37-1-134](#), set by the department.

**History:** En. Sec. 8, Ch. 506, L. 1983; amd. Sec. 2, Ch. 492, L. 1997; amd. Sec. 2, Ch. 375, L. 2003; amd. Sec. 1, Ch. 467, L. 2005; amd. Sec. 12, Ch. 11, L. 2007.

**23-3-502. Bond -- conditions.** (1) A license to conduct professional or semiprofessional combative events may not be issued unless the licensee has executed a bond in the sum of not less than \$5,000.

(2) The bond must be conditioned on faithful compliance by the licensee with the provisions of this chapter and the rules of the department.

**History:** En. Sec. 9, Ch. 506, L. 1983; amd. Sec. 13, Ch. 11, L. 2007.

**23-3-601. Report of ticket sales -- tax on gross receipts -- disposition of money received.** (1) An individual or organization licensed to conduct a combative event shall, within 24 hours after the completion of each combative event, furnish to the department a written report, verified by one of its officers or owners, showing the number of tickets sold for the combative event, the amount of gross proceeds, and other matters that the department prescribes and shall also within 24 hours pay to the department a tax of 5% of its total gross receipts after deducting the federal admission tax, if any, from the sale of tickets.

(2) All taxes and fees collected by the department under this chapter must be deposited in the state special revenue fund for the use of the program, subject to [37-1-101](#)(6).

**History:** En. Sec. 10, Ch. 506, L. 1983; amd. Sec. 48, Ch. 281, L. 1983; amd. Sec. 14, Ch. 11, L. 2007.

**23-3-602. Examination of books and records on failure to make report or on unsatisfactory report -- penalty for failure to pay tax.** (1) If an individual or organization fails to make a report of a combative event at the time prescribed by [23-3-601](#) or if the report is unsatisfactory to the department, the department may examine the books and records of the individual or organization and subpoena and examine witnesses under oath for the purpose of determining the total amount of its gross receipts for a combative event and the amount of tax due under this chapter.

(2) If the individual or organization remains in default in the payment of tax ascertained to be due for a

period of 20 days after notice to the individual or organization of the amount due, the delinquent individual or organization forfeits its license and is disqualified from receiving a new license.

**History:** En. Sec. 11, Ch. 506, L. 1983; amd. Sec. 15, Ch. 11, L. 2007.

**23-3-603. Discipline.** (1) A license issued under the provisions of this chapter may, after notice and opportunity for hearing, be revoked or suspended by the department for a violation of the provisions of this chapter or any rule of the department.

(2) The department may, after notice and opportunity for hearing, reprimand any contestant or suspend, for a period not to exceed 1 year, the contestant's right to participate in any combative event conducted by any licensee for:

- (a) conduct unbecoming a contestant while engaged in or arising directly from any combative event;
- (b) failure to compete in good faith or engaging in any sham combative event; or
- (c) the use of threatening or abusive language toward officials or spectators.

**History:** En. Sec. 12, Ch. 506, L. 1983; amd. Sec. 16, Ch. 11, L. 2007.

**23-3-611. Violation as misdemeanor.** A person who violates a provision of this chapter is guilty of a misdemeanor and upon conviction is punishable as provided in [46-18-212](#).

**History:** En. Sec. 13, Ch. 506, L. 1983.